

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,	)	
425 Third Street, SW, Suite 800	)	
Washington, D.C. 20024,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
v.	)	
	)	
UNITED STATES DEPARTMENT	)	
OF HOMELAND SECURITY,	)	
Office of the General Counsel	)	
245 Murray Lane SW	)	
Washington, DC 20528-0485	)	
	)	
	)	
Defendant.	)	
_____	)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant United States Department of Homeland Security to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552 (a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of

its public interest mission, Judicial Watch regularly requests access to public records of federal, state, and local government agencies and officials and disseminates its findings to the public.

4. Defendant United States Department of Homeland Security is an agency of the United States Government and is headquartered at United States Department of Homeland Security, 601 South 12th Street, Arlington, VA 22202. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On April 2, 2013, Plaintiff submitted a FOIA request to the U.S. Customs and Border Protection (“CBP”), a component of Defendant, seeking records regarding illegal border crossings in Arizona. Specifically, Plaintiff sought access to the following records:

- (1) Any and all records concerning, regarding, or related to the number of illegal border crossings in the Tucson, Arizona sector on a quarterly, semi-annual, and annual basis; and
- (2) Any and all records concerning, regarding, or related to the number of illegal border crossings on the southern Arizona border on a quarterly, semi-annual, and annual basis.

6. By a letter dated April 4, 2013, CBP acknowledged receipt of Plaintiff’s FOIA request and assigned the request reference number 2013F08682.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), CBP was required to determine whether to comply with Plaintiff’s request within twenty (20) working days after receipt of the request. Pursuant to this same provision, CBP also was required to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. CBP’s determination was due no later than May 2, 2013.

8. As of the date of this Complaint, CBP has failed to: (i) determine whether to comply with Plaintiff’s request; (ii) notify Plaintiff of any such determination or the reasons

therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested record or otherwise demonstrate that the requested records are exempt from production.

9. Because CBP failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

12. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 21, 2013

Respectfully Submitted,

JUDICIAL WATCH, INC.

/s/ Paul J. Orfanedes
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Attorneys for Plaintiff